

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

JASON ALSTON

PLAINTIFF

V.

CIVIL ACTION NO. 4:18-CV-157-DMB-JMV

**PRAIRIE FARMS DAIRY, INC.
d/b/a LUVEL, and HAROLD LEROY
PAPEN**

DEFENDANT

ORDER STAYING CERTAIN PROCEEDINGS

This matter is before the court, *sua sponte*, for a stay of discovery due to Defendant's motion to dismiss [30] for insufficiency of service of process pursuant to Fed. R. Civ. P. 12(b)(5).

Local Uniform Civil Rule 16(b)(3)(B) provides that "[f]iling a motion asserting... a jurisdictional defense... stays the attorney conference and disclosure requirements and all discovery, pending the court's ruling on the motion, including any appeal. Whether to permit discovery on issues related to the motion... [is a decision] committed to the discretion of the court." L. U. Civ. R. 16(b)(3)(B). A claim of insufficient service of process is a jurisdictional defense. *See Flory v. U.S.*, 79 F.3d 24, 25-26 (5th Cir. 1996). Accordingly, a stay of certain proceedings is appropriate.

Should the parties desire to undertake jurisdictional discovery they should first contact the court for scheduling of same within seven (7) days hereof, setting forth the type and scope of such discovery and an estimated time frame for constructing it. If any party objects to the motion for discovery, it shall file its objection within four (4) days following service of the motion for jurisdictional discovery.

IT IS, THERFORE, ORDERED that aforementioned proceedings are hereby STAYED and Defendant shall notify the undersigned magistrate judge within seven (7) days of a decision on the motion to dismiss and shall submit a proposed order lifting the stay.

SO ORDERED this, April 2, 2019.

/s/ Jane M. Virden

UNITED STATES MAGISTRATE JUDGE